

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT
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**Paula T. Rogers
Insurance Commissioner**

MEMORANDUM

TO: All Licensed Health and Private Passenger Automobile Insurance Carriers

FROM: Paula T. Rogers
Insurance Commissioner

DATE: October 2, 2001

**RE: Coordination of Benefits Between Health Insurance and
Medical Payment Provisions in Private Passenger Automobile Policies**

This letter is sent to advise you that the Department will be proceeding with rulemaking to address the coordination of benefits between health insurance and medical payments coverage (hereinafter "MedPay"). The proposed new rule will authorize health carriers to declare their coverage secondary to MedPay coverage. Under the rule the insured will be required to exhaust MedPay coverage before seeking coverage from the health carrier. At present, the Insurance Department's rules do not allow a health carrier to declare its coverage secondary to MedPay coverage. The Department's current rule prohibiting a health carrier from declaring its coverage secondary is described in Bulletin No.: INS 00-14-AB issued on August 3, 2000. This bulletin expressly states that a health carrier may not refuse payment based on the existence of other coverage.

As noted, the policy that is presently stated in the Department's bulletin is consistent with the Department's current rules. Under Ins 1904.02 (a), a health carrier may not reduce its benefits or declare its coverage secondary when its insured has duplicate coverage under MedPay. Although Ins 1904.02 (a) does list several exceptions to the general rule that prohibits a health carrier from declaring its coverage secondary or reducing payment due to duplicate coverage, the exceptions listed in Ins 1904.02(a) do not apply to MedPay coverage. There is nothing at present in the Department's rules that would allow a health plan to reduce its benefits when duplicate coverage is provided under MedPay.

Since the issuance of the Bulletin, the Department has received complaints concerning its policy of not allowing a health carrier to reduce its benefits when its insured has duplicate coverage under MedPay. Accordingly, the Department has decided that the policy should be changed and that Ins 1904 should be amended to allow a health carrier to declare its coverage secondary to MedPay coverage. The amendment proposed by the Department to Ins 1904 will authorize a health carrier to declare its coverage secondary to MedPay coverage and will require an insured to

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exhaust the limits of coverage under MedPay before seeking coverage under the insured's health plan or policy.

The Department intends to propose the following amendment to Ins 1904:

Ins 1904.03 would be amended by adding a new section (b) to read:

(g) Medical Coverage Benefits. When an individual is covered under both health insurance and medical payments (hereinafter "MedPay") coverage through a private passenger automobile policy, the MedPay coverage shall be deemed the primary plan for the purpose of determining the order of benefit determination. The health plan shall not be obligated to pay claims for medical services related to motor vehicle accident injuries until such time as the covered person's automobile insurance medical payments have been exhausted. In all cases where the individual has duplicate coverage under MedPay and under a health policy or plan for medical services related to a motor vehicle accident the health carrier shall pay benefits secondary to the covered person's automobile insurance.

Ins 1904.02(a) would be amended by adding a reference to Ins 1904.03(b).

The Department anticipates that the rulemaking process will take approximately 6 months to complete. Until such time as the amendments to Ins 1904 become effective, the policy articulated in the Bulletin No.: INS 00-14-AB will remain in effect. Please do not hesitate to contact the Department if you have any questions.